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**FACULTY OF SOCIAL SCIENCES
DEPARTMENT OF POLITICAL AND ADMINISTRATIVE STUDIES**

**THE PRESIDENTIALIZATION OF BOTSWANA'S PARLIAMENTARY
DEMOCRACY**

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STATEMENT OF ORIGINALITY

I hereby certify that this research is a product of my work in partial fulfilment of a Master of Arts in International Relations at the University of Botswana. All ideas and quotations from the work of other people are fully acknowledged in accordance with the standard referencing practices of the American Psychological Association (APA) style. The research was undertaken from January to November, 2015.

Signature of the Author

Date

DEDICATION

This research essay is dedicated to my parents Molefe and Botho Setlhodi.

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Abstract

Botswana attained independence from the British in 1966, adopting a parliamentary system of government similar to the Westminster model. However over the years, the country undertook a gradual shift from parliamentary democracy through the adoption of reforms borrowed from the presidential system of government. This research paper undertakes an assessment of the origins and driving force behind these changes. It identifies presidential reforms within formal institutional provisions, particularly the Constitution, but also within subtle structural and contingent indicators in Botswana. An in depth analysis of how these reforms have impacted democracy in Botswana is also carried out. The paper then advances an argument that Botswana is going through a presidentialization of its parliamentary democracy. Indicators of this process are identified in the legal powers which have gradually been vested in the office of the President over time, as well as the leadership resources and autonomy at the disposal of the President. Further, presidentialization is identified as a major impediment to the country's democratization as it tends to enhance presidential powers while simultaneously marginalising parliament. Comparisons are also made between Botswana and other parliamentary democracies like the United Kingdom and South Africa. The paper concludes that Botswana does not have a conducive political environment with strong checks and balances to make presidential reforms effective and beneficial to its democracy. It is recommended that Botswana should retain a predominantly parliamentary system of government which promotes executive accountability to Parliament. The paper therefore advocates for the halting and reversal of presidentialization through a review of relevant legislation, particularly certain sections of the country's Constitution.

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CHAPTER 1: INTRODUCTION

1.1 Introduction of the Study

Botswana has for decades been widely regarded as a leading example of democracy in Africa. However, concerns have been raised in recent years that the country's democratization has become stagnant and may even be regressing. Although being a Parliamentary Democracy, it has become evident that Botswana has a President with very strong executive powers and this has had the effect of marginalising Parliament and undermining the entire democratic process. Thus there have been calls for Botswana's political system to be reviewed and reformed in order to restore democracy and various options have been proposed in this regard. This research paper acknowledges that the sweeping powers that are bestowed upon the President and the executive at the expense of other vital arms of government are a threat to parliamentary democracy. The paper however notes a deficiency in the numerous remedies which have been proposed by scholars to restore the country's democracy. The proposals have not adequately highlighted the differences between parliamentary and presidential systems of government, nor focused on how a parliamentary democracy is supposed to operate. This research paper therefore attempts to fill in this gap. It makes an argument based on the 'Presidentialization Thesis', the gradual introduction of presidential reforms to a parliamentary system, and contends that Botswana's parliamentary democracy has been adversely affected by this process. Presidentialization is identified as the driving force behind the strong presidency and the weak and marginalised Parliament. The research elaborates on presidentialization, identifying how it has manifested itself in Botswana and the adverse consequences it has had for parliamentary democracy in the country.

1.2 Background of the Study

Botswana is a multiparty democracy and is considered as Africa's oldest and most consistent democracy (Alexander & Kaboyakgosi, 2012). This is because Botswana has held uninterrupted peaceful elections every five years since its independence in 1966. Mokopakgosi & Molomo (2000) highlight that Botswana opted for liberal democracy at a time when a lot of African countries were adopting one-party systems and military regimes. In recognition of its democratic rule, Botswana has over the years been showered with international accolades for the positive socio-economic outcomes of this democratic practice.

Numerous governance indicators have given Botswana very high ratings, particularly in the areas of rule of law, control of corruption, political stability and management of the economy. Transparency International has consistently awarded Botswana the status of being the least corrupt country in Africa since 1996 (Alexander & Kaboyakgosi, 2012) while the Rule of Law Index for 2015 ranked Botswana 31st globally with a 0.64 score, making it the best performer in Africa on various rule of law indicators (World Justice Project, 2015). In 2015, the Ibrahim Index of African Governance also ranked Botswana third in overall governance from 54 African countries (Mo Ibrahim Foundation, 2015).

Democratic practice in Botswana has also been reflected in the sound management of the country's economy. Botswana rose from being one of the world's poorest countries in 1966, to being classified as an upper middle income country, experiencing per capita economic growths averaging 7% between 1966 and 1999 (Lewin, 2011). In the years 2012 and 2013 Botswana still had high economic growth projections of between 4.8% and 6.7% respectively, and its economy is still considered one of Africa's success stories (African Development Bank, 2012). Botswana's economy was boosted by the discovery of diamonds in the 1970s, which contributed immensely to the country's economy and made mining the dominant sector in terms of contribution to GDP (Malema, 2012). The country also has a robust tourism sector supported by an abundance of natural resources. The stability and security in Botswana have made the country a global tourism destination of choice, being named the world's number one place to visit in the year 2016 by renowned travel guide book publisher Lonely Planet (The Independent, 2015). Alexander & Kaboyakgosi (2012) note how Botswana has consistently invested its revenues on extensive social expenditure, particularly to the less affluent members of society. The well management of the economy is largely seen as the basis for the stability that Botswana has enjoyed for decades.

Cook & Sarkin (2010) however argue that the recognition and accolades regarding the country's progress have actually led to the "inadequate questioning of what occurs beneath the façade in Botswana" (p.455). This is because although Botswana continues to perform relatively well on various indicators, some notable deficiencies have been identified in the country's democracy and governance structures. The 2015 Ibrahim Index of African Governance states that although Botswana is still a high performer in the continent, its performance is on a decline in the areas of safety and rule of law, participation and human rights as well as sustainable economic opportunity (Mo Ibrahim Foundation, 2015).

Botswana also continues to experience challenges with high rates of unemployment, poverty and income inequality (African Development Bank, 2012). The World Bank (2016) states that although Botswana's poverty rate declined from 50% at independence, it is still significant today as it remains over 19%, well above other countries of similar economic status. Unemployment levels also remain high, currently nearing 17.8% and the income inequality and HIV prevalence rate are also quite high (World Bank, 2016). Another challenge for Botswana is that its democracy has become somewhat stagnant, showing little signs of improvement for the better. Botswana is a multi-party democracy but has never experienced a change of government or a strong challenge of the ruling Botswana Democratic Party (BDP) by the opposition. Lotshwao (2011) notes that although Botswana's political opposition is old by African standards it is actually weak, failing to provide any meaningful challenge to all elections held. Alexander & Kaboyakgosi (2012) further note that over the years, the ruling BDP has been able to consolidate its hegemony, turning Botswana into a de facto one-party State operating within an environment of multi-party democracy. Lekalake (2016) also notes low levels of civic participation in the country's democracy, exacerbated by the absence of a strong civil society in the country.

1.3 Statement of the Problem

Botswana has over the years been hailed as a shining model of democracy in Africa. In the 1970s and 1980s the country had a good reputation for political stability, electoral democracy and economic growth at a time when most countries in Africa were under authoritarian rule (Poteete, 2014). This was primarily because Botswana consistently held relatively free and fair elections with multiparty competition and exercised political tolerance combined with the rule of law (Sebudubudu & Osei-Hwedie, 2006). Botswana's credentials have however come under scrutiny, especially as other countries within the continent also underwent democratization. Many scholars have highlighted that Botswana's democratic credentials are actually overrated. Good and Taylor (2008) argue that although still being a functioning electoral democracy, Botswana is now characterised by illiberal authoritarianism and presidentialism which have created "an elitist top-down structure of government" (p. 751).

Poteete (2014) also notes that although Botswana's reputation for high democratic credentials has persisted, there are some contradictory developments like abuse of government authority and the absence of effective checks on executive power. This is to an extent of even being counted amongst countries experiencing a mild but expanding global democratic recession,

which is manifested through “subtle and incremental degradations of democratic rights and procedures that finally push a democratic system over the threshold into competitive authoritarianism” (Diamond, 2015, p. 144). This is because the country has over time developed a strong overarching presidency with excessive executive powers, which have been identified as a major factor in the decline of the country’s democratic rule. It is therefore important to find out how Botswana, a former British protectorate which at independence adopted a parliamentary system, came to have an Executive President with strong powers reflecting traits of the presidential system practiced in the United States of America. The gradual modification of Botswana’s system of government has even led the country to be classified as a hybrid that combines both parliamentary and presidential elements (Maundeni, 2011). The presidentialization thesis developed by Poguntke and Webb (2005) will be utilised in this research. This thesis has been used to trace how regimes, especially parliamentary ones, may gradually and unwittingly adopt features of the presidential system to the detriment of a country’s democracy.

1.4 Research Questions

The Study aims to answer the following research questions:-

1. How did Botswana’s Parliamentary Democracy come about?
2. What was the governance structure in place when the country attained independence?
3. What are the main features that define Botswana’s democracy?
4. Are there existing structural features that have a presidential bearing on Botswana’s parliamentary democracy?
5. What has been the impact of this level of presidentialization on Botswana’s Parliamentary Democracy?

1.5 Justification of the Study

This research focuses on the area of Parliamentary democracy which is inadequately covered in existing literature on Botswana. The main features of a parliamentary democracy are seldom discussed and understood as something that can consolidate and preserve democracy. Provisions of the presidential system are however frequently discussed by scholars as a remedy for the challenges to the country’s democracy, further marginalising parliamentary practice. The principle of the separation of powers has become particularly prevalent as discussed by Fombad (2005) and Dingake (2009) as the best way to consolidate democracy in

Botswana. This is further enhanced by calls for the direct election of the President, in light of the powers that are bestowed upon this office, as articulated by Molomo (2000). This research finds it imperative to undertake a thorough assessment of the main features and implications of both parliamentary and presidential practice in an attempt to ascertain the provisions that would be best suited for Botswana. The assessment looks at the historical development of the country's democracy, and how it has been impacted by both parliamentarism and presidentialism. The study makes most comparisons with the Westminster system, which is the most relevant model of parliamentary democracy. It also draws comparisons with South Africa, an African Parliamentary democracy also with a President, but which retains the key principles of a parliamentary democracy. The comparisons are used to illustrate how well a parliamentary democracy can function when the provisions of a parliamentary system are applied correctly.

1.6 Organization of Chapters

Chapter 1 introduces the study and its background. It also outlines the statement of the problem which highlights the anomalies that are present in Botswana's parliamentary democracy. The chapter also brings out research questions which guide the subsequent chapters and also provides justification of why this study is important. To have a thorough understanding of the major systems of government which are at the centre of this research, Chapter 2 undertakes a literature review of the history, origins and main features of parliamentary democracy as well as the presidential system. The chapter also develops the concept of presidentialization and how this process can lead to a gradual transition from a parliamentary to a presidential democracy. Chapter 3 discusses the methodology for this research as well as its validity and reliability. Chapter 4 traces the evolution of parliamentary democracy in Botswana, providing background information from the pre-independence period. This is followed by an identification of the main features of Botswana's parliamentary democracy at Chapter 5, which are predominantly outlined in the constitution but also reflected in other legal documents and government practices. Chapter 6 undertakes an assessment of the existing subtle manifestations of presidentialization which can be observed through analysing the President's ability to overcome resistance and make autonomous decisions. Chapter 7 summarises the main findings of the study and concludes by making recommendations of how Botswana can halt and even reverse presidentialization in order to restore the proper practices of a parliamentary democracy.

CHAPTER 2: LITERATURE REVIEW

Introduction

This chapter reviews existing literature on the major systems of government that are in place in the world's modern democracies. The history and origins of these systems are identified as well as their major defining features. According to Krouwel (2000), the most prevalent typologies in which political systems can be classified are parliamentary, presidential and those with semi-presidential types of executive powers. There has however been a lack of agreement amongst scholars on how to classify certain regimes based on the fact that countries do not have identical constitutional arrangements, cultures and norms. Despite this, the presidential and parliamentary systems are the two original types of democratic regimes from which some hybrids emerged, broadening the range of regime types (Shugart & Carey, 1992). Therefore, to overcome the problem of classification, Krouwel (2000) suggests that only the key characteristics of parliamentary and presidential regimes should be considered when making assessment. The chapter also elaborates on the concept of presidentialization and relies heavily on the work of Poguntke & Webb (2005) who have discussed it extensively. The main drivers of this process, both salient and inconspicuous, are identified and its possible adverse consequences are discussed.

2.1 PARLIAMENTARY DEMOCRACY

i) History and Origins

Huda (2005) traces the roots of parliamentary democracy to the beginning of the 1100s in Germany, where representatives of certain classes came together under an ancient legislature named the Reichstag. It was however the British Westminster system that managed to uphold the evolution of parliamentary practice uninterrupted for centuries, providing a model for legislative assemblies around the world. The British were able to export this system of government through their empire and later, through the decolonization process (Docherty & Seidle, 2003). In Great Britain, the parliamentary system evolved from a long struggle between barons and kings during the 12th and 13th centuries, as the former demanded the right to have a say on certain royal decisions as well as the protection of subjects against oppression, resulting in the signing of the Magna Carta in 1215 (Huda, 2005). In 1265, there was the first convening of representatives of cities and boroughs, marking the first meeting of

a parliament and setting into motion the development of a parliamentary system (Bradley, 2012). By the 16th century there was a bicameral structure of parliament in place with two chambers working to appropriate revenue to the crown, authorising taxation and making laws (Bradley, 2012). A Bill of Rights signed in 1689 retained the executive power of the monarch but in 1723 the office of the Prime Minister emerged (Bradley, 2012). The system developed gradually, with an assembly representing localities co-existing with a ministry that over time, shifted from being controlled by the monarch to being controlled by the assembly itself (Shugart & Carey, 1992). Parliamentary democracy was therefore a gradual evolution as opposed to a deliberate decision taken to create the system.

ii) Main Features of Parliamentary Democracy

In the United Kingdom, parliament under the Westminster system includes the Legislature, the Executive and the Crown but Docherty & Seidle (2003) maintain that parliamentary government has evolved in a number of countries, leading to some modifications. The main principles that underlie the Westminster democracy however remain largely intact as follows:-

An executive that emerges from Parliament

The political executive as a whole emerges from the Legislature and must enjoy the confidence of the latter (Poguntke & Webb, 2005). Those at the core of the Executive are thus required to be Members of Parliament and remain accountable to the legislature. Staddon (2008) refers to this as government through parliament, instead of government by parliament. This accountability, according to Strom (2000), stems from the fact that in its original Westminster form, parliamentary government was perceived as the supremacy of Parliament, reflecting a belief in the rule by the popularly elected majority.

In a Parliamentary system, Prime Ministers and Chancellors do not usually have limited terms of office (Newton & Van Deth, 2010). The Office of the Prime Minister is a Cabinet position and the holder is the leader of the party that enjoys a majority in the House of Commons and also leads the Executive in charge of government (Setty, 2008). Even in parliamentary democracies where the chief political officer is named a President and not Prime Minister, the provisions are still the same. South Africa is a case in point where the Constitution states that the National Assembly must elect one of its members as President at its first meeting after elections or whenever it becomes necessary to fill a vacancy in the

office (Republic of South Africa, 1996). The elected individual will thereafter be required to relinquish their position as Member of Parliament. Following election of a Prime Minister in a parliamentary democracy, the holder of the office proceeds to elect from the general assembly other members of Cabinet. Hefferman & Webb (2005) however contend that the Prime Minister's role is to manage the Executive through his/her leadership and not to command it.

Staddon (2008) describes Parliament in a parliamentary democracy as sovereign and states that nothing in law is more superior than the acts that parliament passes. Law making in a parliamentary democracy is done by the legislature and the adopted acts are assented to by the Head of State who is a ceremonial figure. In the United Kingdom, it is the Crown and in Canada it is the Governor General representing the Crown, or the Justice of the Supreme Court of Canada (The Senate of Canada, 2012). The royal assent process is therefore purely formal. The representation of the Executive within Parliament serves to assist in the passage of government legislation as the process is centralised (Staddon, 2008).

Strom (2000) however states that though Parliament was initially considered supreme during the 2nd half of the 19th century, there was increasing delegation from Parliament to the Executive, which had the effect of enhancing the powers of the latter. Therefore with increased delegation and provisions, parliamentarism came to be conceived "as a system of fused or unified government" (Strom, 2000, p. 4). The relationship between Parliament and the Executive became characterised by dependency of one upon the other. The chief executive power must be supported by a majority of the legislature and in turn, also has the power to dissolve the legislature and call for elections (Krouwel, 2000).

Executive accountability to Parliament

Docherty & Seidle (2003) state that "parliamentary government is in both theory and practice, responsible government" where the Executive and Legislature are linked by political accountability (p. 7). Although members of the Executive have some degree of power when compared to their counterparts in the backbench, this power comes with responsibility for the actions of the ministries and departments that the Executive oversees. Ministers are therefore periodically required to answer to the Legislature for such actions. The Constitution of South Africa reflects this accountability principle of Parliamentary Democracy by stating that:-

“The National Assembly is elected to represent the people and to ensure government by the people under the Constitution. It does this by choosing the President, by providing a national forum for public consideration of issues, by passing legislation and by scrutinising and overseeing executive action” (Republic of South Africa, 1996, p. 15).

Strom (2000) identifies a chain of delegation that exists between principals and agents in all forms of representative democracy, which is “mirrored by a corresponding chain of accountability that runs in the reverse direction” (p. 7). In a parliamentary system, the principals and agents can be in either collective or individual components with the former taking the form of an entire Parliament Chamber, Parliament Committees, political parties and individual Members of Parliament while agents can include Cabinet, the Prime Minister and civil servants (Sanchez de Dios, 2012). This is captured in the Constitution of South Africa which states that “Members of Cabinet are accountable collectively and individually to Parliament for the exercise of their powers and the performance of their functions” (Republic of South Africa, 1996, p. 31). They are required to provide Parliament with full and regular reports regarding the areas under their control. The same prevails in the British system of parliamentary government, where there is a convention of collective ministerial responsibility as well as a convention of individual ministerial responsibility (Staddon, 2008).

The chain of delegation flows from voters to elected representatives and from representatives to the Executive which in turn delegates to Ministries. All agents who are delegated to act on the principal's behalf are held accountable by such principal. Citizens in a parliamentary democracy are therefore able to indirectly hold a government accountable through this chain of delegation. They have the ability to change the composition of Parliament, which in turn would lead to changes in the Executive. In Parliament, holding the Executive accountable is undertaken by both the opposition members of parliament as well as backbenchers of the ruling party who are not in Cabinet (Docherty & Seidle, 2003).

In a Parliamentary Democracy, accountability of the Executive by Parliament can be ensured in the following ways:-

i) Vote of No Confidence

Executive accountability to Parliament is normally institutionalised in the privileged legislative motion of confidence or no confidence, which can be used whenever there is a question or doubt about a Minister or an entire Executive (Laver & Shepsle, 1999). Laver (2008) states that a country that does not have a provision for this confidence/no confidence vote in its Constitution cannot be classified as having a parliamentary government system. Through such a vote, a government can be dismissed from its position and a new government elected. Therefore in order for the Executive to come and stay in power, it must enjoy the confidence of the Legislature (Shugart & Carey, 1992). This can be seen in the United Kingdom where a Prime Minister who ceases to retain the confidence of the Legislature actually loses the authority to govern and must resign to enable a new government to be formed, and if not possible, advise the Head of State that a general election be held (Bradley, 2012). The Constitution of the Republic of South Africa (1996) also allows for the removal of the President by a two-third majority of the National Assembly based on serious misconduct by the holder of the office, inability to perform functions required by the office or a violation of the country's constitution and/or any laws.

ii) Periodic Reviews

Parliamentary democracies provide procedures and structures for a consistent and periodic review of the Executive by the Legislature. Sanchez de Dios (2012) states that if left unchecked, the relationship between the executive and the legislature can suffer “agency loss”, being the inability of the principal to learn from the agent's behaviour and gain information about the agent's actions (p. 3). To prevent this, measures are put in place to ensure that at all times Parliament is aware of Executive activities. This parliamentary accountability function is performed through the parliamentary question period, public debates, caucuses and other provisions. It is through these that the Executive continuously earns the confidence of the backbench in order to effectively lead (Docherty & Seidle, 2003). In the House of Commons, there is a provision for oral questions for answers by Ministers as well as specific questions directed to the Prime Minister (Sanchez de Dios, 2012). The practice of parliamentary questions to the Executive dates back to 1721 although the Prime Minister's question time was only established in 1961 (Setty, 2008). The latter was established mainly as a way of increasing the accountability of the Prime Minister to the House of Commons, as well as to the public at large. It is grounded on the view that all members of the Executive are obliged to answer to representatives of the people regarding

government policies and the Prime Minister is no exception. This was especially so because from its creation, the office of Prime Minister evolved from a less powerful position in the early 18th century to a more prominent one with consolidated political power responsible for almost all duties as the head of government (Setty, 2008). This is why in 1961 there was a perceived need by the Houses of Parliament as well as the public to keep the holder of this position accountable to other branches of government as well as to the general public in line with the spirit of parliamentary democracy.

This provision for the Prime Minister's question time prevails every week in the House of Commons and even gives the Leader of Opposition priority when asking supplementary questions, normally focusing on highly topical issues (Sanchez de Dios, 2012). The practice also prevails in other Commonwealth countries, though sometimes with modifications and less frequency. For instance in South Africa, the President answers oral questions to the National Assembly four times a year and to the National Council of Provinces once a year (The Presidency, 2015). The Prime Minister's question time has therefore been said to have the appearance of being equal parts of "an attack on the Prime Minister's policies by Members of Parliament (MPs) of opposition parties, support of the Prime Minister by MPs of his own party, an opportunity by the Prime Minister to discuss achievements of his party and Cabinet, and an opportunity for MPs to demonstrate to their constituents that they are addressing their concerns" (Setty, 2008, p. 264). This practice therefore makes for a more transparent process of governance.

The UK also has other substantive motions that express a definite view aimed at coercing the government to take a specific course of action or policy and also has a provision of opposition days, 20 days per year, in which the opposition decides what is debated (Sanchez de Dios, 2012). By enabling topics of the opposition's own choosing, this practice is therefore a very important constitutional principle (Staddon, 2008). The three Estimates Days spread out over a fiscal year are another source of accountability to limit agency loss by gaining information from the government and ensuring that the latter accounts for its expenditure of public money (Sanchez de Dios, 2012).

2.2 THE PRESIDENTIAL SYSTEM

To understand the concept of presidentialization, there is a need to decipher the working mode of Presidential systems by analysing their inherent mechanisms. The development of the Presidential system dates back to the United States Constitutional Convention which decided on an Executive elected by direct popular vote as opposed to one elected by congress (Shugart & Carey, 1992). This was the development of the first system of democracy where there were to be two agents of the electorate as opposed to one as found under a parliamentary system. The key features of a presidential system, defined in the legal or constitutional sense include:-

i) The Separation of Powers

Presidential systems are characterised by the existence of an Executive that emerges independently of a Legislature under a system of Separation of Powers (Shugart & Carey, 1992). The origins of a separation of powers can be traced back to the Enlightenment Period and the American revolution that eventually led to the founding of the United States of America. Following the revolution, the Americans wanted a system of government that reflected the equality of all men, with power being in the hands of the many (Calabresi et al, 2012). They rejected the mixed British system which represented the three social classes being the King, the House of Lords and the House of Commons. Under the presidential system, both the executive and legislature are voted for separately by the electorate, receiving separate and fixed electoral mandates that are their own source of legitimacy. The executive is therefore politically irresponsible to the legislature which has no direct bearing on its survival in office and similarly, the legislature also has its own democratic mandate and cannot be dissolved by the former (Poguntke & Webb, 2005).

According to Newton & Van Deth (2010), the separation of the two governance entities, each with its independent authority and mandate was to ensure that there is an imposition of mutual checks and balances against one another. Therefore, “when one branch of government shifts its mode of operation and the information it controls, the other branches must adjust to maintain the systematic balance of government” (Setty, 2008, p. 247). Although under a presidential system there is no mutual confidence between the executive and the legislature, the system normally provides the president with veto power over legislation. The veto power of the President provides the office holder with lawmaking powers to ensure that “the popular

endorsement of a policy program through a presidential election can be translated into actual policy output” (Shugart & Carey, 1992, p. 19). The argument is that if the President does not play a role in law making, then he/she would just be the executor of laws he/she never influenced.

Fombad (2005) states that the classic formulation of the doctrine of separation of powers by Montesquieu recognises three separate, distinct and independent functions of government and that these functions should be discharged by three equally separate distinct organs being the executive, legislature and judiciary. This requires that there be a “principle of separation of personnel” as outlined by Mojapelo (2013) which requires that the same person should not be a member of more than one of the three organs of government, implying that Cabinet Ministers should not be Members of Parliament (p. 38). Secondly, it is required that none of the organs should encroach upon the powers and work of the other and should be irresponsible to the others (Fombad, 2005). It is further required that the holders of office in one organ should not owe their tenure to the mercy of those in another organ but rather, their tenure should be at the will of their electorate. In the US, this doctrine is clearly outlined in the Constitution of 1787, which goes beyond apportioning duties by stipulating the independent emergence of members of these organs and their inability to interfere with the tenure of others (Fombad, 2005).

ii) A popularly elected Head of Government and Unipersonal Executive Responsibility

For a political system to be formally recognised as Presidential, it should have a popularly elected head of government, and this is seen as an essential pre-condition for the President to enjoy democratic legitimacy (Poguntke & Webb, 2005). The head of government is provided with superior executive power resources because of this legitimacy from the electorate and can basically govern without outside interference. The principle of separation of powers also works to protect the head of government from pressure from his/her party.

In a presidential system, a directly elected President is both head of state and head of government, while in a parliamentary democracy the two are normally separate. The head of state under a parliamentary system is largely a ceremonial figure with the more powerful role of head of government being carried by a Prime Minister or Chancellor (Newton & Van Deth, 2010). The President is therefore powerful but the executive power is balanced by the

legislature which is also independent of the Executive and also popularly elected. A Presidential system is also characterized by unipersonal executive responsibility where the President appoints a Cabinet which is directly accountable to him, while he carries the responsibility of the entire administration and is politically accountable to the electorate (Poguntke & Webb, 2005).

Semi-presidential regimes normally mix some core elements of presidentialism and parliamentarianism and are often referred to as hybrids. These have popularly elected executive leaders who are not accountable to Parliament, as well as Prime Ministers who emerge from Parliament and are formal heads of government (Poguntke & Webb, 2005). Canas (2004) states that some countries would prefer a combination of the two major systems of government because they have difficulty in adopting either a pure parliamentary or presidential regime based on a particular sociological or political environment.

2.3 THE CONCEPT OF PRESIDENTIALIZATION

Poguntke & Webb (2005) define Presidentialization as “a process by which regimes are becoming more presidential in their actual practice without in most cases, changing their formal structure, that is, their regime-type” (pg. 1). For parliamentary democracies, it is a gradual move or adoption of characteristics of a presidential system of government. This can be reflected in an increase of leadership power and autonomy by political leaders coupled with the personalization of electoral processes which are characteristic of presidential systems (Sakano, 2008). Such power increase can be observed in the prominence of the leader within the Executive as well as within the party he/she leads. Although Poguntke & Webb (2005) state that the personalization and presidentialization of politics can happen regardless of the formal constitutional characteristics of a system, in certain exceptional cases the forces of presidentialization can, and have led to a formal ratification of changes. Hazan (2005) outlines how in the 1990s the presidentialization of politics had achieved such magnitude in Israel such that the country undertook an alteration of the electoral system and the constitution, creating the direct and popular election of the Prime Minister in the country’s parliamentary democracy. Therefore, in a parliamentary and semi-presidential regime, presidentialization would make the systems function more according to the inherent logic of presidential systems, while presidentialization under a presidential regime would take the system closer to its logical conclusion (Poguntke & Webb, 2005).

Drivers of Presidentialization

Poguntke & Webb (2005) argue that presidentialization is amplified by certain contingent and structural factors that do not necessarily flow directly from the constitutional structure. Structural changes can include changes in party rules or in the fabric of society while contingent changes include the characteristics of particular political actors or specific political contexts. However, these changes can gradually and eventually lead to Constitutional changes that enhance the powers and prominence of a leader. Talk of the presidentialization of Prime Ministers dates back to the days of Margaret Thatcher in Britain as she displayed a shift from the traditional collective, to the more individualised form of executive government (Hefferman & Webb, 2005). Discussions on presidentialization especially intensified with the premiership of Tony Blair in Britain and Junichiro Koizumi in Japan (Sakano, 2008). It is however the former who received the most attention in this regard based on the strong display of presidential features during his term. Proponents of the presidentialization thesis have identified certain conditions in parliamentary democracies that assist in driving this process.

i) Growth of leadership power resources

Sakano (2008) notes that following the 2001 national elections, there were significant changes in the structure of the British Prime Minister's Office as the policy unit was expanded in mandate and staff, enabling the Prime Minister to intervene in certain policy areas. This had the effect of enhancing the Prime Minister's power base. According to Hefferman & Webb (2005) in 2003, the Independent Committee on Standards in Public Life even issued a report in which it recommended the clear legal definitions of the roles, lines of accountability as well as limitation of numbers of the Prime Minister's advisers. Sakano (2008) reports that while at the end of his term in 1997, John Major had 8 special advisers, when Tony Blair took over they increased to 18 and by 2003 there were 27.

Increased power can also be the result of "a growing capacity to overcome resistance by others" (Poguntke & Webb, 2005 pg.7). This may be pushed by growing resources to overcome potential resistance which could include an overwhelming parliament majority and weak opposition. Korn (2010) argues that the relations between the executive and the legislature are largely affected and determined by the political results of an election, meaning that an opposition that is weak and divided tends to make the Prime Minister a powerful figure. This is why Linz (1990) points out that Parliamentary systems that have tightly

disciplined parties as well as a Prime Minister that enjoys an overwhelming majority of seats in the legislature, will tend to grow quite similar to Presidential regimes. The increased size of a government's parliamentary majority is likely to lead to an increase in the Prime Minister's power as opposed to if he/she was presiding over a narrow majority.

Similarly, the number of parties participating in a given government also influence the role of the head of government. Korn (2010) notes how Tony Blair headed three single-party governments in Britain and was a stronger Prime Minister than those heading coalition governments. Prime Minister Blair operated over the House of Commons with majorities of 179 and 166, compared to John Major who in early 1997, only had a majority of one (1) legislator (Hefferman & Webb, 2005). Hazan (2005) has also observed this development in Israel, stating that during the country's first three decades there was development of a dominant party system characterised by party discipline and an unchallenged party leadership which culminated in not only "Executive encroachment of the Legislature, but outright defiance of the latter by the former" (p. 292).

ii) Increased autonomy of leader

Poguntke & Webb (2005) state that the increased power of a leader can be the result of "a growth of the zones of autonomous control" (pg.7). This is an enhancement of the leader's ability to make autonomous decisions to attain the outcome that he/she desires, often bypassing other government structures like Parliament and Ministries. Hazan (2005) notes how in the 1990s Israel experienced a reduction in the role of individual ministers as well as a creation of the office of the Prime Minister's staff which helped the Prime Minister carry out government policy according to his priorities. This staff "coordinated with, and took control of the Ministries, and intervened heavily in policy-making to the extent that several ministers complained of the infringement of their authority and responsibility" (Hazan, 2005, p. 291). Similarly, Sakano (2008) notes how in addition to numerous special advisers, Prime Minister Blair also created a number of special units and task forces which included his own diplomatic staff and chief advisors on Europe as well as on Defence and Foreign Affairs. This enabled him to overcome departmentalism and bypass the advice of the foreign office, allowing him to take initiatives on foreign policy. He was considered to have been able to override and bypass the advice of the foreign office more than any other Prime Minister since Winston Churchill (Hefferman & Webb, 2005). Korn (2010) states that such autonomy often leads to a "de-parliamentarization" of the governing process in which the involvement of the

Prime Minister in the parliamentary process declines and she/he frequently announces major policies outside Parliament (p. 7).

iii) Enhanced prominence of leader and personalization of electoral processes

There is an agreement amongst experts that there has been a general increase in leader-centred election campaigning and media coverage of such leaders, indicating the presidentialization of politics in parliamentary democracies (Poguntke & Webb, 2005). While media companies have increased their emphasis on political party leaders, political parties have also made the leaders more prominent in their campaigns. This is articulated by Hefferman & Webb (2005) when they state that “the presidentialization thesis implies that parties will modify their campaign styles and structures as they come to perceive a growing potential for votes to be swayed by leadership evaluations” (p. 51). Electoral presidentialization is further enhanced and promoted by the growing and changing role played by the electronic media which tends to focus on personalities (Poguntke & Webb, 2005).

Hefferman & Webb (2005) suggest that there was, at least in the 1970s and 1980s a general consensus amongst academics that structural issues like ideology counted for more when it came to voting in a parliamentary system. But it has since been revealed that images of leaders have become increasingly influential in voting patterns. Electoral processes becoming moulded by the personalities of the political leaders have been taken as indicators of presidentialization, which also has an effect of personalizing the electoral process. If parties see a growth in the potential for leadership effects on voting behaviour, then they are likely to respond by making leaders a more prominent focus on their election campaign (Hefferman & Webb, 2005). The strong focus of the public and the media on a party leader is however likely to lead to perceptions of such a leader, not as the chief advocate of his/her party, but actually being seen as the “embodiment” of the party (Korn, 2010, p. 5). The restructuring of the British Prime Minister’s press office under Tony Blair to centralise government communications and the introduction of a politically appointed Press Secretary are amongst indicators of the Prime Minister having been presidentialized (Sakano, 2008).

iv) Change in institutional provisions

Although presidentialization is often observed in actual practice and not formal alteration of the regime type, in Israel the process eventually culminated in legal modifications to adopt

reforms of a presidential nature. The office of the Prime Minister in Israel was gradually strengthened over time through structural-institutional provisions and by the contingent personalities of the Prime Ministers at the expense of Parliament, parties and other cabinet members. Hazan (2005) shows how the scope of the Prime Minister's office increased significantly from the contents of the Government Yearbook of 1949 which restricted the office to coordination and organization, such that by the 1960's the yearbook had redefined the Prime Minister's office reflecting a more activist role and by the 1970s the office had become a more centralised organ. Ultimately in 1992 the Knesset, the country's legislature, passed a law to enable the direct election of the Prime Minister (Samuels, 2002).

Problems with Presidentialization

The presidential system has been criticised for being less conducive to preserving democracy, when compared to a parliamentary system. According to Linz (1990), the majority of stable democracies in the world are actually Parliamentary democracies, with Executives that are generated by the legislative majorities and also dependent on the legislatures for their survival. Therefore there is a possibility that adopting some presidential practices in a parliamentary democracy can work to erode a country's democratic development and result in the following:-

i) **An excessively powerful executive**

Although the presidential system is premised on the principle of separation of powers, in operation the workings of the system have often reflected the strengthening of the Executive relative to the other arms of government, especially the legislature. Setty (2008) states that in the US, the ability and will of Congress to exercise its oversight role over the Executive tends to be badly impaired in instances of one-party or unified government where a single party controls the White House and its Houses of Congress and Representatives. This can be seen in how the Democrats were excluded from almost all crucial negotiations over major bills as well as Pentagon advisory boards and White House briefings after the George W. Bush administration won an electoral college majority to the White House, House of Representatives and House of Senate (Vitello, 2004). Setty (2008) even suggests that adoption of some Westminster parliamentary measures similar to the Prime Minister's question time would ensure a greater degree of accountability of the Executive in the US.

According to Setty (2008) the framers of the US Constitution had actually perceived the Executive as weaker compared to the legislature which enjoyed high numbers, and was therefore endangered by the latter. They thus believed a low level of executive accountability to the Congress and to the public was sufficient and would help prevent the tyranny of the numerous legislature. This however inadvertently led to the Executive's ability to consolidate more power over time. Warren (2015) also outlines how the Bush administration was able to consolidate power in the post 9/11 period as the courts and Congress increasingly deferred to the President, basically allowing him to undertake illegal steps in the name of national security. This is because major developments such as the Cold War and the September 9/11 attacks have worked to strengthen the Executive branch in the name of national security and congress became more willing to cede power, especially in international relations (Setty, 2008). President George W. Bush, with the backing of Congress, managed numerous attempts to override the legal principle of habeas corpus which prevents the detention of suspects without charges, access to a lawyer and a court hearing (The Rutherford Institute, 2015). The attempts were made despite rulings by the Supreme Court that violation of habeas corpus rights contradicts the Constitution and the US Bill of Rights. Some of the laws passed by Congress in this regard include the open-ended Authorization for use of Military Force used to justify the detention of people suspected of terrorist activities and the Patriot Act (Warren, 2015). Ironically in 2005, the British Parliament refused Cabinet's attempts to increase from 14 to 90 days the period for which suspects of terrorist acts can be detained for questioning before being charged, despite popular support for the proposal (Staddon, 2008).

ii) Erosion of democratic practices

Samuels & Shugart, (2006) maintain that the separation of origin and survival between the Executive and the Legislature in a presidentialised system generates distinct organizational and behaviour patterns such as the election of Presidents based on personal qualities. This often leads to the president being perceived as distinct from the party he/she leads, as opposed to the high degree of collective action within political parties in a parliamentary system. According to Linz (1990), "the conviction that he possesses independent authority and a popular mandate is likely to imbue a President with a sense of power and mission" (p. 56). Weyland (2013) notes this trend in presidential figures like Hugo Chavez of Venezuela who used populism to entrench his predominance and install a competitive authoritarian regime. Samuels & Shugart, (2006) argue that this inclination under presidentialism also provides fewer prospects for "responsible party government" where party leaders deviate

from agreed party policies towards those of their preference, something that shouldn't happen under a parliamentary democracy. The result is poor policy coordination and independent action by a President who cannot be regulated by parliament or his/her party.

Presidentialism also operates according to the winner-take-all rule while the parliamentary system gives representation to a number of parties, and according to Linz (1990), the latter creates room for power sharing and the formation of coalitions. The positive effect of this is to allow the demands of smaller parties to receive some attention. By moving away from provisions of a parliamentary system, countries therefore risk foregoing the inclusiveness of this regime type.

Another practice that prevails under presidential systems is the automatic succession that provides continuity when the office of the President becomes vacant. The US Constitution provides that in the event of a death, resignation or removal from office, the President will be succeeded by the Vice President (Neale, 2008). Linz (1990) criticises this practice, stating that it allows a successor who may have been imposed by a president as a running mate to take over the reigns, even though he may not have popular support.

The presidential system also often leads to the negligence of important structural issues like ideology in the voting process. As earlier revealed, one of the ways in which presidentialization often manifests itself is increased focus on leadership personalities, especially by the media and political parties. Poguntke & Webb (2005) state that parties have a central role as a mechanism for elite selection and as gatekeepers to access virtually all important positions. However, by increasing focus on individual leaders, presidentialization can contribute to the weakening of political parties as collective actors in modern democracies. Samuels (2002) highlights this development in Israel stating that the adoption of direct elections for the office of Prime Minister transformed the country's two largest parties, Labour and Likud into vote seeking parties that moved away from their ideological roots and policy-seeking origins.

iii) Lacks flexibility

Mainwaring (1990) suggests that the Presidential system works to promote Cabinet stability as opposed to the regime stability of Parliamentary democracy, where there is flexibility in changing governments while preserving the entire system. This provides little flexibility

especially in crisis situations. Linz (1990) finds the Presidential system to be rigid due to its fixed term and absence of confidence vote, providing little room for shifts in alliances or fresh elections due to new developments. Everything has to wait until the end of term. Carey (2005) highlights the importance of having a confidence vote, which he refers to as a “safety valve” that allows Parliament to remove a government from office without discarding the Constitution (p. 94). Although most Presidential Constitutions have provisions for impeachment, Shugart & Carey (1992) state that the provision cannot be used for political reasons but can only be used with evidence of malfeasance or disregard for constitutional procedure. There is little flexibility and democratic alternatives in crisis situations as attempts to depose the President may shake up the entire system. Therefore in most instances, a coup may appear to be the only way in which an incompetent or unpopular President can be removed (Mainwaring, 1990).

2.4 CONCLUSION

The two main systems of government both seek to attain the same objective of effective governance and accountability. Parliamentary democracy pursues this through the fusion of powers between the Legislature and the Executive. By making the Executive emerge from parliament, the system ensures a chain of constant accountability flowing from the Executive to parliament and ultimately to the citizens. In a parliamentary democracy, parliament enjoys extensive powers to enable it to periodically review the work of the Executive and can even recall the latter, while the composition of parliament itself remains intact. The presidential system makes a departure from this and draws its strength from separating the Legislature and the Executive, each receiving an independent mandate from the electorate. It follows that both the Executive and Legislature account directly to the voters, who also hold the power to extend or terminate their terms in office. The mandates of these organs, together with the Judiciary, are delineated in such a way that they create mutual checks and balances on each other, but without interfering with the operations or composition of one another. This leads to an effective system of government under the principle of separation of powers. Presidentialization takes effect when an Executive that emerges through parliament, fails to effectively account to this parliament. Such an executive exercises an independence that is only seen under presidentialism, but without the accompanying provisions of a properly functioning presidential democracy. The result is compromised accountability by the Executive, making it pre-eminent and powerful against other government organs, especially parliament.

CHAPTER 3: RESEARCH METHODOLOGY

3.1 Research Design

This research predominantly uses qualitative desk research through the analysis of sources of information which include books, journal articles, newspaper articles and legislation, especially the country's Constitution. Some quantitative research was however undertaken in the tabulation of election results from Botswana's first elections in 1966 to date. The research therefore adopts a mixed-method approach which according to Creswell (2003), originated from the realisation that on their own, qualitative and quantitative approaches have inherent limitations and biases. Wesley (2010) further states that this "dualist" approach recognises the interdependence that often exists between quantitative and qualitative approaches and therefore, adds value to the research which will benefit from the respective strengths of the two approaches (p. 3). The mixed-method approach also resulted in triangulation which was instrumental in ensuring the validity and reliability of the research as discussed in the latter portions of this chapter. First an elaboration of the research methods adopted is given.

3.2 Comparative Historical Research

Comparative historical research which according to Babbie (2012), can be used to examine the historical progression of social forms, is employed particularly at Chapter 4 to trace the evolution of parliamentary democracy in Botswana. Mahoney & Rueschemeyer (2003) find this mode of research mostly suitable for researchers who "choose to ask the big questions" concerning large scale processes which provide powerful clues about the patterning of social life (p. 7). A gradual shift in a country's system of government therefore represents one such large scale process. Berg (2001) notes that undertaking historical research goes beyond just a recollection of the past, but also studies the relationships amongst issues which have influenced history while they continue to influence the present and are also expected to shape the future. Presidentialization, is one such process which occurs over time and not just within static periods, driven by certain contingent and structural factors as elaborated by Poguntke & Webb (2005). This is further emphasised by Mahoney & Rueschemeyer (2003) who state that comparative historical research "is defined by a concern with causal analysis, an emphasis on processes over time, and the use of systematic and contextualised comparison" (p. 6). Therefore, the development of Botswana's democracy could be traced to history, beginning with the era preceding independence and presidentialization could be followed from its inception.

Mahoney & Rueschemeyer (2003) have also stated that comparative historical research does not typically seek universal knowledge about all instances of historically constituted populations, but rather focuses on puzzles which apply to particular historical cases. This was relevant when answering questions on how and why Botswana, a former British protectorate modelled on the Westminster parliamentary system, came to display certain features of the presidential system. Babbie (2012) also emphasises the importance of “understanding” when analysing this historical data such that a researcher is “able to take on, mentally, the circumstances, views, and feelings of those being studied, so that the researcher can interpret their actions appropriately” (p. 318). Analysing data on the indigenous society and traditional leadership prior to Botswana’s independence required a thorough understanding of the role that these stakeholders played in the formulation of the country’s Constitution as well as the consequent implications.

3.3 Qualitative Content Analysis

While studying the contingent and structural signs of presidentialization it became necessary to undertake some qualitative content analysis which according to Babbie (2012), often overlaps with comparative and historical research and entails going through social artifacts usually in the form of written documents. Devi Prasad (2008) notes how content analysis allows for the study of the content of messages in order to decipher some inherent meanings, contexts and intentions contained within. Therefore, laws, newspaper articles and other documents referred to by Babbie (2012) as social artifacts, which are products of human beings or their behaviour became the units of analysis.

In qualitative content analysis, researchers rely on their abilities to present clear descriptions and to make convincing analysis of data, as well as to ensure they present strong arguments for their interpretations and conclusions (Wesley, 2010). Although it is common to use sorting and coding techniques in content analysis, Berg (2001) explains that the interpretation of text is normally determined by the theoretical orientation of the researcher, and a qualitative researcher may opt to uncover the essence of an account instead of employing coding techniques. Wesley (2010) states that in lieu of coding techniques, a qualitative researcher in political science can adopt certain disciplinary standards when treating data, which include authenticity, portability, precision and impartiality to enhance the trustworthiness of the research.

With this in mind, I analysed the Constitution of Botswana, the Standing Orders of Parliament, various legislation which relates to the electoral process of Botswana as well as the conditions of service of Members of Parliament, in order to identify patterns in legal and institutional provisions which reflect an enhancement of the President's powers and profile. Similarly, I also analysed newspaper coverage of verbal presidential directives, presidential appointments and presidential use of certain resources to identify patterns of growth in the President's leadership power resources, the increased autonomy of his activities and his personalization of certain processes.

3.4 Analysis of Existing Statistics

An analysis of existing statistics became necessary to study the results of Botswana's national elections since 1966. These came from reliable official records including those of the Independent Electoral Commission (IEC). Babbie (2012) underscores the importance of undertaking an analysis of existing statistics, stating that it should at least always be considered as a supplementary source of data as it tends to provide a historical or conceptual context within which to locate original research.

3.5 Data Collection

Because the research relied heavily on the examination of historical documents and content analysis, the data collected was predominantly secondary data which according to Hox & Boeije (2005) is data which was collected for a different purpose, but is used for the study at hand. The collection of secondary data was also appropriate because of its unobtrusive nature. This is because studying presidentialization required the observation of the existing legal and institutional provisions for presidents as well as the behaviour and decisions taken by these presidents which could only be done by going through documents. This is in line with the observation made by Berg (2001) that "unobtrusive indicators can provide access to aspects of social settings and their inhabitants that are simply unreachable through any other means" (p. 189).

3.6 Data Validity and Reliability

Yeasmin & Rahman (2012) outline the difficulties that social scientists often face with validity and reliability of information, particularly when dealing with human behaviour which can be influenced by various elements. Babbie (2012) stated that in social science research,

validity refers to having a measure in place which reflects the real meaning of the concept being researched, while reliability is where the repeated application of a particular technique yields the same result. Wesley (2010) also states that qualitative researchers often face criticism that their data is not only non-verifiable and non-cumulative, but may also be based on sheer intuition and individual guesswork. This is in contrast to quantitative researchers who employ well established statistical tools and tests to verify their work. To overcome this, triangulation was adopted to ensure that the data collected was both reliable and valid for the purposes of the research. According to Jakob (2001), triangulation can be used to confirm findings through the convergence of different perspectives which could come from using multiple observers, theories, methods and even materials. This is further confirmed by Berg (2001) who suggests that different research methods offer different lines of sight which are directed towards the same point and therefore reveal “slightly different facets of the same symbolic reality” (p. 4). By opting to use a combination of comparative historical research, content analysis and analysis of existing statistics, I adopted multi-method triangulation which according to Meijer et al. (2002), can combine the gathering of both qualitative and quantitative data to study the same phenomenon and ensure research findings which are more valid.

Data triangulation was also adopted by retrieving data from multiple sources such as laws, journal articles, Parliament proceedings and newspapers in order to form one body of data. This data was collected from different periods beginning with pre-independence in 1966 and legal and institutional changes were traced over decades to reveal the manifestation of the presidentialization process. Berg (2001) highlights that often there are challenges with the validity of information contained in official archives where some information is missing due to failure to update or carelessness on the part of officials who are custodians of the information. I encountered such a lapse when accessing the official statistics of the Botswana election results from 1966, but in order to overcome this, I used data from two reputable sources being the Botswana Independent Electoral Commission (IEC) and the Electoral Institute for Sustainable Democracy in Africa (EISA) to ensure accuracy of the statistics. Roberto (1987) also acknowledges concerns of bias and selectiveness regarding information found in newspapers but he notes that often newspapers are the only available consistent source of certain data. I also took note that newspapers are most likely to be unreliable on their interpretation of reasons behind certain events and messages, not necessarily that the

event itself took place. Therefore, my analysis was not focused on journalistic interpretations but on what certain officials actually communicated, often directly quoted.

The data received from legislation for Botswana and other countries is considered authentic and reliable as it came from reliable official sources. Only the most recently amended and updated laws were used to ensure the accuracy of information. The official website of the Attorney General's Chambers in Botswana was particularly used in this regard as legislation is at the centre of the discussion on the main features of Botswana's parliamentary democracy in Chapter 5. The speeches and proceedings from the parliaments of Botswana and South Africa were sourced from official parliament records and through the official website of the House of Commons I accessed information on the operations of the British parliamentary system, which was referred to for comparison. Wesley (2010) also emphasises the importance of protecting the authenticity of qualitative research by ensuring accurate reading of documents and genuine interpretation of the information found in documents. This was undertaken during this research.

3.7 Limitations of the Study

Selection of data for content analysis was only limited to legislation and other documents relating directly and indirectly to the operations of the office of the presidency as well as related institutions like Parliament.

When analysing existing statistics regarding the representation of political parties in Parliament, focus was only on the periods immediately following national elections. It did not reflect changes brought about by by-elections or floor-crossing by Members of Parliament which altered representation in the periods between the elections. These changes were however minor and did not present a significant variation in the numeric strength of political parties in Parliament.

CHAPTER 4: THE EVOLUTION OF PARLIAMENTARY DEMOCRACY IN BOTSWANA

Introduction

This chapter provides a historical account of the roots of parliamentary democracy in Botswana in order to identify factors that influenced its inception and progression over the years. The evolution of parliamentary democracy in Botswana can be traced back to the colonial era which set the foundation for the current state of affairs. The chapter examines Botswana's system of government before independence, how the country transformed in the period leading to 1966 and the Constitution which was adopted for the country's parliamentary democracy.

4.1 Traditional Leadership before Independence

Before the creation of the Bechuanaland Protectorate, indigenous societies had a hereditary type of leadership exercised through the institution of *Bogosi* or Chieftaincy (Mgadla, 1998). In the early years of the protectorate, this leadership continued to function largely undisturbed as Chiefs continued to oversee matters in their respective territories. Fawcus and Tilbury (2000) state that the British government mainly left the Chiefs to govern their tribes as per set traditional practice to avoid running into maintenance costs of a sparsely populated protectorate. At the centre of this traditional system of administration was the *Kgotla*, an assembly where national issues were discussed and resolutions taken and the duties of the Chiefs included trying cases, convening and holding public meetings and tribal ceremonies as well as distribution of land and maintenance of law and order (Mgadla, 1998). The traditional political system was considered to be somewhat democratic because of the practice of consultation by the Chief working with a legion of councillors, but the Chief's decisions were final, without an authority to whom an appeal could be made (Somolekae & Lekorwe, 1998).

Things however started to change some years into the establishment of the protectorate, resulting in increased interference by the British in the traditional administrative system. A threat by the British South Africa Company to take over the administration of the protectorate resulted in the posting of an officer representing the British Queen, who would oversee matters in the territories of respective Chiefs (Fawcus & Tilbury, 2000). By 1891, an Order in Council had given the British High Commissioner to South Africa extensive executive and legislative authority and also created a Resident Commissioner for Bechuanaland (Fawcus &

Tilbury, 2000). The British became even more involved when there was a declaration of proclamations which deviated from the initial understanding that Her Majesty's government would allow Chiefs to carry out their duties as before. The proclamations were made in 1934 and not only required a Chief to be recognised by the High Commissioner before assuming his seat, but also required him to consult a Statutory Tribal Council, instead of a traditional *Kgotla* meeting, when carrying out his functions (Mgadla, 1998). The proclamations further gave the High Commissioner the power to suspend, fine and even depose any Chief who was perceived as uncooperative or troublesome to British officials (Fawcus & Tilbury, 2000). Some Chiefs who suffered this fate included Sekgoma Letsholathebe in 1906, Sebele II in 1931, Molefi in 1936 as well as Seretse and Tshekedi Khama in 1950 (Ramsay, 2015). Ramsay (1998) had however earlier noted that the British experienced difficulty in conferring the legitimacy of the deposed monarchs upon the successors they chose such that "in the absence of the legitimate local monarchs, monarchical legitimacy itself was compromised" (p. 109). Therefore, by independence there was a general decline of chieftainship accelerated by these depositions.

Freddie (2011) notes that the constitutional dispensation that came with independence further adversely impacted upon the institution of *Bogosi*, altering functions that the Chiefs had in both the pre-colonial and colonial periods. In 1966, the traditional executive, judicial and legislative powers of Chiefs were transferred to other newly created state institutions (Somolekae & Lekorwe, 1998). The Chieftainship Act was also adopted and it subordinated all chiefs to the central government by granting the President the power to recognise a traditional ruler (Good & Taylor, 2008). This Act has since been named the *Bogosi* Act and it states that following the designation of a *Kgosi* (Chief) by a tribe, the *Kgosi* has to be recognised by a relevant Minister, further giving the Minister the power to reprimand, suspend and ultimately withdraw recognition of a *Kgosi* (Republic of Botswana, 2008). These powers were exercised against Kgosi Kgafela II of Bakgatla who was de-recognised by government in 2011 and barred from exercising any duties relating to tribal administration (Office of the President, 2011). *Ntlo ya Dikgosi* (House of Chiefs) was established as an advisory body of traditional leaders to work closely with government on matters related to traditions and customs (Freddie, 2011). The house has no legislative powers and remains largely ceremonial. Section 85 of the Constitution only enables *Ntlo ya Dikgosi* to consider specific Bills from Parliament and the house can only make resolutions which are not binding to the legislature (Republic of Botswana, 1966). Freddie (2011) outlines how traditional

leaders were never happy with this arrangement, preferring a house with law-making authority akin to the House of Lords under the British system. The independence Constitution however transformed monarchical politics into republican politics and the Kgotla was declared an apolitical place while traditional leaders were declared politically neutral. Maundeni (2005) outlines how government further introduced electoral reforms preventing chiefs from immediately entering politics after retirement following the loss of a parliamentary seat by then Vice President Masire to Chief Bathoen Gaseitsiwe in 1969. This was effectively another way of preventing Chiefs from engaging in other leadership roles in society where they could exercise some degree of power. Therefore, the coming into being of the Republic of Botswana as a parliamentary democracy only provided a minor role for the country's traditional leadership as powers were vested elsewhere.

4.2 Introduction of the Republican Constitution and Executive Powers

A Legislative Council comprising of elected and appointed officials from both the local and colonial powers was created around 1959 in preparation for the independence of the Bechuanaland Protectorate and it was presided over by the Protectorate's Resident Commissioner (Freddie, 2011). It was this Council that elected a Constitutional Committee which drew up the Constitution for the independent Botswana. Otlhogile (1998) states how a draft of this Constitution was never presented to the general population for a referendum nor was it referred to a constituent assembly of this populace for input. This Constitution blended the traditional features of the British Westminster model with those imported from elsewhere, particularly an Executive Presidency (Parliament of Botswana, 2015). Although the President was to be an elected Member of Parliament and leader of the majority party, he was also both head of government and head of state (Otlhogile, 1998). The President was also bestowed with all Executive powers as reflected at Section 47 of the Constitution which states that "the Executive power of Botswana shall vest in the President and, subject to the provisions of this Constitution, shall be exercised by him or her either directly or through officers subordinate to him or her" (Republic of Botswana, 1966, p. 32). Good & Taylor (2008) argue that adoption of this Constitution was enabled by the post-independence apathetic electorate which had a traditionalist culture of respect for authority and allowed President Seretse Khama and the BDP to establish a hegemonic position in post-independence Botswana. According to Bodilenyane (2012), this was greatly assisted by President Khama's royal status and may have contributed to preventing any questions regarding the absolutism of the constitution. Freddie (2011) outlines how at independence,

legitimacy was still derived from traditional authority and therefore, in the eyes of many Batswana, Seretse Khama was still a traditional leader and voting for him was similar to “endorsing him as the first paramount chief of Bechuanaland” (p. 86). The introduction of the indirect election of the President in 1972 further cemented the hegemony of the President creating, according to Good & Taylor (2008), an autocrat who decided almost everything alone.

The Constitution of Botswana bestows far-reaching executive powers upon the person who holds the Office of President. He/she is provided with the supreme command of the armed forces and has the sole power to appoint top government officials including the Chief Justice, President of the Court of Appeal, Attorney General, Director of Public Prosecutions and other Permanent-Secretary level positions (Republic of Botswana, 1966). Section 47 (2) of the Constitution states that in the exercise of any function conferred upon the President by the Constitution, “the President shall, unless it is otherwise provided, act in his or her own deliberate judgement and shall not be obliged to follow the advice tendered by any other person or authority” (Republic of Botswana, 1966, p. 32). Molomo (2000) outlines how the powers of the President are wide-ranging, straddling all the arms of government being the Executive, Judiciary and Legislature.

4.3 Conclusion

The historical account of Botswana’s parliamentary democracy reveals that prior to independence, the powers of the traditional leadership had been eroded within the Bechuanaland Protectorate. Traditional leaders therefore assumed an inferior role in the new Republic, having little input in crafting their new positions and in formulating the new Constitution. The Constitution was also never subjected to rigorous interrogation by the general public or at least a constituent assembly of the citizens’ representatives for input. This Constitution contained provisions for a President with very strong executive powers. This was the first sign of presidentialization as the country deviated from the British practice and the royal status of the first president made it easier for the public to accept this new Constitution without any resistance. The Constitution of Botswana further provides for the President to be both head of government and head of state, enhancing his/her already strong executive powers and this is also a departure from the parliamentary system that normally separates the two roles.

CHAPTER 5: MAIN FEATURES OF BOTSWANA'S PARLIAMENTARY DEMOCRACY

Introduction

To assess the state of Botswana's parliamentary democracy, this chapter will focus on the main formal institutional features of Botswana's brand of parliamentary democracy and identify how the country has been affected by formal presidentialization reforms. Botswana operates a single member district or the First-Past-The-Post electoral system adopted from the British system where constituencies are re-drawn whenever there is a change in population following a census (Molomo, 2005). This system has been in place since the country's independence. Section 63 of the Constitution states that the country "shall be divided into as many constituencies as there are elected members of the National Assembly and each of those constituencies shall return one member to the National Assembly" (Republic of Botswana, 1966, p. 39). There are currently 57 constituencies, following gradual increases over the years. The national elections as well as any by-elections always follow the issue of a writ of elections by the President, fixing a day of the election (Republic of Botswana, 1968). According to the Constitution, Parliament shall continue for five years from the day of its first sitting following a national election, unless if it is sooner dissolved by the President (Republic of Botswana, 1966).

The following are the main features that define Botswana's parliamentary democracy:-

5.1 Indirect Election of the President

One of the features that Botswana adopted from the Westminster Parliamentary system at independence was a President who emerges through Parliament. In fact, initially between the elections in 1965 and independence in 1966, Botswana had a Prime Minister and not a President as Section 31(1) of the Constitution states that "the first President shall be the person who immediately before 30th September, 1966 holds the office of Prime Minister under the Constitution" (Republic of Botswana, 1966, p. 22). The change of name however did not extend to how this official comes to be in office, particularly in the initial years of the new Republic. The British Cabinet Manual describes a Prime Minister as the Head of Government who holds his/her position by virtue of being able to command the confidence of the House of Commons (Cabinet Office, 2011). Although Botswana changed from having a

Prime Minister to having a President, the latter however still emerged through Parliament and retained his position through Parliament confidence, albeit with a slight modification introduced later. This was evidenced by how in 1965, Seretse Khama contested for, and won the Serowe North Constituency under the Botswana Democratic Party and thereafter became Prime Minister and later the President of Botswana (Barei, 2000). The election process continued in a similar way in the subsequent elections until a constitutional amendment in 1973 which according to Otlhogile (1998), was triggered by Vice President Masire losing his constituency to *Kgosi* Bathoen II in the 1969 elections. Government thereafter took a decision to amend the law such that it would no longer be a requirement for the President to contest and win a Parliamentary seat. The indirect election of the President was therefore introduced.

The new Constitutional amendment was such that the election of the President was now subsumed within the elections of the National Assembly. The procedure commences with a nomination process where persons who have been nominated as parliamentary candidates may declare the presidential candidate they support within their nomination forms under the Electoral Act (Republic of Botswana, 1968). Section 32(3)(c) of the Constitution of Botswana continues to stipulate that:-

“where the Parliamentary election is contested in any constituency a poll shall be taken in that constituency at which the votes shall be given by ballot, and for the purposes of that poll any Parliamentary candidate who declared support in accordance with paragraph (a) for a particular Presidential candidate shall use the same voting colour and symbol, if any, as may have been allocated under any law for the time being in force in Botswana to that Presidential candidate for the purposes of the Presidential election” (Republic of Botswana, 1966, p. 23).

According to Section 32(3)(d) of the Constitution, a presidential nominee whose supporters manage to attain more than half of the total number of seats of the National Assembly is declared as the elected President of the Republic of Botswana (Republic of Botswana, 1966). The declaration of the presidential winner can in fact be made while the counting of ballots is ongoing in other constituencies. This was done by Chief Justice Maruping Dibotelo in the 2014 elections when he declared President Ian Khama as the Presidential winner as soon as the BDP attained 29 seats at around 2am on the morning of the 26th October (*Mmegi*, 2014). Therefore a vote for a Member of Parliament is actually a vote for a Presidential candidate as

well, and the President thus holds his/her position based on the number of his supporters within Parliament. Section 58(1) of the Constitution of Botswana also stipulates that the President is an ex-officio Member of the National Assembly and is entitled to speak and also vote in all proceedings of the Assembly (Republic of Botswana, 1966). The Constitution however provides the indirectly elected President with a fixed term in office as outlined at Section 34 (1) which states that the President can only hold office for an aggregate period which does not exceed ten years beginning from the first day that he/she assumes office (Republic of Botswana, 1966).

5.2 A Cabinet that emerges from Parliament

The Constitution of Botswana has placed the Executive, the Legislature and the Judiciary within separate sections under Chapters 4, 5 and 6 respectively (Republic of Botswana, 1966). However, Otlhogile (1998) observes that the placement of such organs under separate sections does not necessarily provide for their operational separation or clear definition. The Cabinet in Botswana is selected from the Legislature, with a provision for temporary appointment of non-Members of Parliament. This is reflected at Sections 42 and 43 of the Constitution which state that Ministers and Assistant Ministers are appointed by the President from amongst members of the National Assembly, and the exceptions are provided for at Sections 42(3)(i) and 43(b) allowing the president to appoint a maximum of four persons from outside the assembly for a period not exceeding four months (Republic of Botswana, 1966). In 2009, the latter provision was used by the President to appoint, from outside parliament, Mr Kenneth Matambo as acting Minister of Finance and Development Planning while the substantive Minister Baledzi Gaolathe was on sick leave (Sunday Standard, 2009). Maundeni (2008) observes that the overlapping of the executive and the legislature enhances accountability and transparency because it compels ministers to present as well as defend their actions within parliament.

The Constitution further stipulates that the office of a Minister or Assistant Minister only becomes vacant when the holder ceases to be a Member of Parliament, when he/she is removed from office by the President or when a new President assumes office (Republic of Botswana, 1966). Parliament is therefore not involved in any way regarding the appointment or dismissal from office of Cabinet Ministers. The maximum number of Ministers and Assistant Ministers that the President can appoint is however regulated by the Ministerial

Offices (Maximum Number) Act, which only Parliament can amend (Republic of Botswana, 1967).

In Botswana, Cabinet is also heavily involved in the legislative process, initiating the majority of Parliament business in the form of Government Bills, policies and motions. This is illustrated at Section 31.2 of the National Assembly Standing Orders which gives government business priority from Mondays to Wednesdays during any Meeting of Parliament (Parliament of Botswana, 2014). This government business is led by Cabinet Ministers as opposed to what transpires in the US where the President can only recommend legislation to Congress, but does not directly initiate Bills (Fombad, 2005). The Executive further performs legislative functions in the form of delegated and subsidiary legislation which is not required to pass through the National Assembly. Fombad (2005) notes how the volume of subsidiary legislation often far exceeds legislation enacted by Parliament in the form of Acts.

5.3 Accountability of the Executive to Parliament

Collective Accountability

A major feature of a parliamentary democracy highlighted by Poguntke & Webb (2005) is that the Executive must enjoy the confidence of Parliament through continuous accountability. Section 50(1) of the Constitution of Botswana which covers functions of Cabinet Ministers and Assistant Ministers states that Cabinet shall “be responsible to the National Assembly for all things done by or under the authority of the President, Vice-President or any Minister in the execution of his or her office” (Republic of Botswana, 1966, p. 33). This implies some collective executive responsibility.

The accountability of the Executive to Parliament in Botswana is exercised through Parliament questions, motions and Parliament committees (Fombad, 2005). Motions adopted by Parliament are however not binding on the Executive and are therefore of little effect in ensuring accountability. This was illustrated when in 2007, Parliament adopted a motion which called on government to suspend negotiations to privatise Air Botswana but the Minister responsible chose to continue with the negotiations anyway (Mooketsi, 2007). The Attorney General issued a statement in the Minister’s favour stating that, unlike Acts of

Parliament, parliamentary motions are not binding on the Executive and that the Air Botswana negotiations fell within the preserve of the Executive (*Daily News*, 2007).

The National Assembly Standing Orders provide for questions with notice to Ministers, as well as questions without notice on Fridays (Parliament of Botswana, 2014). However, these can be ineffective because of certain provisions within the Standing Orders that place restrictions on the content of the questions. Section 38(1) of the Standing Orders prohibits, amongst other things, questions which make reference to debates and answers given within a current session/year, enquiring about matters of a secret nature and more importantly Section 38(1)(m) prohibits Members of Parliament from seeking information that is already accessible in official publications and other ordinary works of reference (Parliament of Botswana, 2014). Cabinet has recently been accused by Members of Parliament from both the ruling and opposition parties of using the latter provision to avoid giving answers to the opposition, stating that the information is in the public domain (Letswamotse, 2014). This is despite the argument that public information is not always readily available from government offices, as put forward by the former Leader of Opposition Dumelang Saleshando when he tabled the Freedom of Information Bill in 2010 (Modise, 2010). The Bill was meant to address this deficiency by creating a statutory right for the public to access information held by all public bodies but despite receiving initial support in Parliament, it was ultimately rejected. Government was reported to be suspicious of its contents, and the then Minister for Presidential Affairs, Mokgweetsi Masisi made a promise to table an alternative Bill, with government's preferred wording (Moeng, 2012). To date, the Bill has not been tabled and the current state of affairs therefore hampers the possibility of having an Executive that is fully accountable to Parliament.

Accountability is also provided for in Section 9 of the National Assembly Standing Orders which recognises the Leader of the Opposition and ensures that he/she sits in important Parliament committees like the Standing Committee, Business Advisory Committee, as well as inter-parliamentary bodies like the SADC Parliamentary Forum, Commonwealth Parliamentary Association and the Inter-Parliamentary Union (Parliament of Botswana, 2014). The Leader of Opposition, as well as leaders of minority opposition parties are also given longer speaking time than other Members of Parliament during important debates like the Budget Speech and State of the Nation Address (Parliament of Botswana, 2014). There is however no special provision for opposition business as is the case in the Standing Orders of

the House of Commons, which provide 20 days in a session/year, 17 of which are led by the Leader of Opposition, while the remaining 3 days of business are led by the second largest opposition party (House of Commons, 2010).

Individual Accountability

Section 50(1) of the Constitution which provides for some collective Executive responsibility is silent on individual accountability, especially that of the President (Republic of Botswana, 1966). Barei (2008) however notes that the President is obliged under the principle of executive accountability to “deliver a ‘state of the nation’ address to Parliament every year, exposing him or her to parliamentary review, and compelling the President to account for all the actions and omissions of government” (p. 16). Nevertheless, save for this state of the nation address, the President is not required to make any other appearance in Parliament. Botswana does not have anything similar to the Prime Minister’s question time which is practiced in other parliamentary democracies. In December 2014, the Botswana Congress Party (BCP) Member of Parliament for Selebi Phikwe West, Dithapelo Keorapetse informed Parliament that he intends to table a motion requesting Parliament to enact a law that will compel the President to attend parliament proceedings (The Mmegi Monitor, 2014). Even in responding to the state of the nation address, the President has traditionally delegated this duty to the Leader of the House as provided for by Section 8(2)(v) of the Standing Orders (Parliament of Botswana, 2014). Section 23(2) of the same Standing Orders even guides Members of Parliament on how they should debate the President’s Address by stating that the President’s name should not be used disrespectfully (Parliament of Botswana, 2014). This provision does not elaborate on what constitutes disrespect and may only work to prevent criticism of the President. The sweeping Executive powers vested upon the President by the Constitution also make it possible for the President to be irresponsible to Parliament. Molomo (2000) notes that when carrying out his/her executive powers, the President is predominantly not required to consult anyone and therefore any consultation that is done is at the office holder’s discretion.

Vote of Confidence/No Confidence

Fombad (2005) states that Parliament’s most potent weapon against government, which can be used to ensure accountability, is the power to oust government through the vote of no confidence provided for at Section 92 of the Constitution. The Constitution outlines that the National Assembly may pass a resolution that it has no confidence in the government of the

day and this resolution should be supported by the majority of the members. However, such a resolution also leads to an automatic dissolution of Parliament as Section 92 of the Constitution states that “if the National Assembly at any time passes a resolution supported by a majority of all the members of the Assembly who are entitled to vote declaring that it has no confidence in the Government of Botswana, Parliament shall stand dissolved on the fourth day following the day on which such resolution was passed, unless the President earlier resigns his or her office or dissolves Parliament” (Republic of Botswana, 1966, p. 55).

Fombad (2005) refers to this as a “double-edged sword” which may prevent Parliament from removing the government of the day as its fate is tied to that of the latter (p. 326). The likelihood of Parliament exercising this power has therefore been very remote, especially considering the BDP overwhelming majority since independence as well the weakness of the opposition. The motion of no confidence has therefore only ever been moved once in the history of Botswana by the opposition Botswana National Front (BNF) in 1995 (Sebudubudu, 2010). Fombad (2005) notes that there was in the past, a practice of debating motions of no confidence against Ministers in order to foster individual accountability, but the practice was ended by a government sponsored motion in 1997. The practice was seen as futile because it was not provided for in the Constitution which stipulates that only the President can appoint and dismiss Ministers, as per Sections 42(3) and 43(c) respectively.

5.4 Automatic Succession by the Vice President to the Presidency

Another feature of Botswana’s parliamentary democracy is the automatic succession of the Vice President to the presidency provided for in Section 35 (1) of the Constitution which states that “whenever the President dies, resigns or ceases to hold office, the Vice-President shall assume office as President with effect from the date of death, resignation or ceasing to be President” (Republic of Botswana, 1966, p. 25). This is a departure from the practice in a parliamentary system where such power would lie with Parliament, as opposed to a single individual. In the United Kingdom, whenever there is a vacancy in the office of the Prime Minister, the identification of a successor is undertaken by the party or parties in government which have a majority in the House of Commons (Cabinet Office, 2011). Similarly, in South Africa, a vacancy in the Office of the President requires a Parliament vote as reflected in 2008 following the resignation of President Mbeki from office (Parliamentary Monitoring Group, 2008).

Good & Taylor (2008) note that automatic succession of the Vice President to the Presidency in Botswana was brought about by the 1998 constitutional amendments under President Masire which effectively removed Parliament from the succession process. Makgala (2008) further argues that initially automatic succession was adopted by the BDP in 1995 as a way of addressing factions within the party and thereafter extended to the country's constitution primarily to ensure the President's preferred successor amidst the same factions. The true reasons for its introduction have never been adequately validated leading to wide criticism that the provision only allows for the imposition of the President's preferred successor on the country. Makgala (2008) compares this imposition of a successor to a tendency by African presidents to ensure the survival of their legacy beyond their term limits and he sees automatic succession as a phenomenon of personal rule, presidentialism and predominant party systems. This feature therefore deviates from the parliamentary practice and reflects the influence of presidentialism.

5.5 Conclusion

The Constitution of Botswana makes no reference to a separation of powers similar to the American Constitution and a closer examination reveals a fusion of powers, particularly between the Executive and the Legislature. The Cabinet is drawn from Parliament and is heavily involved in the legislative process, as should be expected in a parliamentary democracy. However, although the Executive emerges through Parliament and is expected to be accountable to it, there are certain features which reveal a deviation from parliamentary practice. Within the process of a president emerging through Parliament, there is an element of presidentialization because parliamentary elections in Botswana reflect features of a presidential election as well. Party presidents, although not directly elected, take the position more or less similar to that of running mates holding a joint ticket in a presidential election. They are never subjected to a parliamentary contest and yet one is declared a winner based on the outcome of the parliamentary elections. Section 32(3)(c) of the Constitution even makes reference to a "presidential candidate" and "presidential election" indicating that there are individuals who are running for a presidential election simultaneously with the aspiring Members of Parliament (Republic of Botswana, 1966, p. 23). Botswana's parliamentary elections therefore have a presidential component.

Another observation is that although the Executive emerges from Parliament, the latter has no real control over the Executive's performance or its dismissal. There are some accountability mechanisms in place but these are inadequate and not very effective. This, according to Sebudubudu & Osei-Hwedie (2006) has reduced the Botswana Parliament to only serving as a rubber stamp for Executive business as opposed to taking its rightful role within a democracy. Presidentialization is therefore reflected in that the executive does not really need the confidence of Parliament to continue to exist. The accountability of Cabinet is more directed at the President as is the case in presidential systems. The Constitution is silent on the individual accountability of the President and Ministers to Parliament and even the vote of no confidence against the government has a safety valve as it would mark the dissolution of the Parliament itself. Further, the wording of the Constitution under Chapter IV was clearly formulated for a President who does not account to Parliament, allowing him/her to be irresponsible to Parliament as is the case in presidential systems. The removal of the constitutional requirement that the President should be an elected Member of Parliament has also been severely detrimental in this regard. Poteete (2014) notes how a parliamentary system relies on this provision to access the leader and secure his/her accountability, but this link has been severed in Botswana, undermining the principles and intent of a fusion of powers. The term limit for the President is another departure from the practice in parliamentary democracies, which do not normally limit the terms of Prime Ministers. It reflects presidentialism, marking an end to the independent mandate the President would have received from the electorate.

CHAPTER 6: CONTINGENT AND STRUCTURAL SIGNS OF PRESIDENTIALIZATION

Introduction

As has been demonstrated in the preceding chapters, presidentialization in Botswana's parliamentary democracy can be traced back to when the country attained independence. A close examination has however revealed that over and above the formal changes that have altered the country's parliamentary system, there are some subtle manifestations of presidentialization. As Poguntke & Webb (2005) have stated, presidentialization is often amplified by contingent and structural factors. To identify if these are present in Botswana, there was a close examination of the president's ability to overcome resistance as well as factors that may be enhancing the leadership resources at the disposal of the President.

6.1 The President's ability to overcome Resistance

There are a number of ways in which the President in Botswana is able to overcome resistance as discussed below:-

i) Presidential immunity

Section 41(1) of the Constitution protects the President from all legal proceedings, both criminal and civil, for anything he does in his/her official and personal capacity (Republic of Botswana, 1966). The President is therefore insulated from any challenge he may receive to his actions. This power is also reflected in the Immigration Act which grants the President discretionary powers to declare a foreigner a Prohibited Immigrant and offers no appeal for such declaration (Government of Botswana, 2011). The fact that it is difficult for even Parliament to recall the President as explained in the preceding chapter means he can undertake any action, even where there is resistance, and not be held accountable for it for the duration of his indirect term. This has been illustrated by how during his presidency, President Mogae was able to ignore a recommendation by the Office of the Ombudsman, dissuading the piloting of Botswana Defence Force (BDF) aircrafts by then Vice President Khama. At the time, President Mogae stated that he has authorised the manner of use of the said aircraft in his capacity as the Commander-in-Chief of the Armed Forces (Tutwane, 2004).

Similarly, in 2014, President Khama gave Education Minister Venson-Moitoi leave of absence which was followed by numerous acting appointments within Cabinet. These appointments created uncertainty regarding the President's compliance with the Ministerial Offices (Maximum Number) Act which stipulates a maximum number of 16 Cabinet Ministers (Republic of Botswana, 1967). Minister Venson-Moitoi maintained that she remained a Minister, heading a strategic plan under her Ministry while Mr Vincent Seretse was appointed full Minister, bringing the total number to 17 (Mosikare & Piet, 2014). Because the President cannot be brought before the courts, the true legality of such a decision remains unknown.

ii) Government Green Book

The President has also been able to display his ability to overcome resistance by using the Government Green book to override Parliament decisions. The Green Book is an official document outlining the privileges of certain government offices including the President, Cabinet Ministers and their assistants, as well as the Leader of Opposition (*The Telegraph*, 2012). The Green Book was used by President Khama to overturn Parliament's rejection of an amendment to the National Assembly (Gratuities and Pensions) Act which sought to introduce a package for retired Vice Presidents. The President was able to extend these packages to former Vice Presidents Merafhe and Kedikilwe with the explanation that the Green Book allows the President to grant benefits and privileges outside Parliament (Mathala, 2015). This prompted questions regarding the legality of this Green Book and whether it can be used to override parliament legislation in a case that is still being pursued by the opposition Botswana Congress Party (BCP) (Mosikare, 2015). This is particularly so considering the legal withdrawal of money from the Consolidated Fund as provided for in Section 118 of the Constitution (Republic of Botswana, 1966). The Green Book was also used to prevent former Leader of Opposition, Dumelang Saleshando, from addressing public meetings in 2012 despite the fact that he had received authority from the Speaker of the National Assembly to do so (*The Telegraph*, 2012).

iii) Presidential directives

Newspaper coverage has revealed instances where the President communicates directly with the public, declaring his intention to use his executive powers through presidential directives, to bypass existing legal processes. At a *Kgotla* meeting held in the village of Bokaa in 2015, President Khama made it clear that he intends to use his Executive powers to overrule

Parliament by ensuring that there is a land quota system for villages surrounding urban areas (*Sunday Standard*, 2015). This was after the initiative which was part of a draft Land Policy was rejected by the legislature. In a similar incident, President Khama declared a 4% salary increment for civil servants in various *Kgotla* meetings around the country in 2014, while the legal bargaining process was still ongoing (Masolotate, 2014). The Botswana Federation of Public Service Unions (BOFEPUSO) approached the courts arguing that the President had bypassed the negotiation process that is legally required of the Public Service Bargaining Council comprising of union representatives and government officials (Ramahosi, 2015). Section 53(a) of the Public Service Act stipulates that the Bargaining Council is the legal forum that can negotiate, conclude and enforce collective bargaining between the public service employer and recognised trade unions (Republic of Botswana, 2010). When making the announcement, President Khama stated that he declared the increment because negotiations were taking too long and would result in increments taking place in the middle of the financial year, and therefore interfering with the national budget (Government Portal, 2014).

iv) Access to public resources

The President has an unlimited access to key public resources which also enables him to overcome resistance. One of these resources is the government media which houses the two state radio stations, the only television station with national coverage as well as the country's largest daily newspaper. Following the 2009 general elections, the Department of Information and Broadcasting was transferred from the then Ministry of Communications, Science and Technology to the Office of the President, sparking fears of control of public media at the highest level (Mmeso, 2014). Government media has been used to read personal political statements on behalf of the President as evidenced in 2009 when the Director of Broadcasting Services, Mr Mogomotsi Kaboemodimo, read a statement on behalf of President Khama regarding why the latter suspended Mr Gomolemo Motswaledi from the Botswana Democratic Party (BDP) (Keoreng, 2009). This gives the President ample opportunity to communicate his views to the public, to clarify his position on certain issues and also works to enhance his profile as an individual.

v) Overwhelming ruling party majority

As previously stated, an Executive's growing capacity to overcome resistance is often amplified by the ruling party having an overwhelming majority, coupled with the presence of

a weak opposition. Botswana has never had a coalition government and the Botswana Democratic Party (BDP) has been in power since independence. Botswana has unfailingly held elections from 1965 until 2014 and holds the most impressive record of consistency in Africa. An assessment of the election results from these elections however reveals persistent high majorities by the BDP over various opposition parties as follows:-

Election Year	BDP Seats	Combined Opposition Seats	% of BDP Seats in Parliament
1965	28	3	90.32
1969	24	7	77.42
1974	27	5	84.38
1979	29	3	90.63
1984	28	6	82.35
1989	31	3	91.18
1994	26	13	66.67
1999	33	7	82.5
2004	44	13	77.19
2009	45	12	78.95
2014	37	20	64.9

Sources: (EISA, 2015), (IEC, 2014)

Mokopakgosi and Molomo (2000) have argued that these results show that Botswana is in fact operating a de facto one-party system within an environment of a multi-party democracy. This scenario is maintained by the BDP using the advantages of incumbency which include access to state resources like state media and the Kgotla as well as its ability to reward party activists with special appointments to diplomatic and civil service. The BDP is however aided in this regard by a fragmented opposition that is not really presenting a credible threat to its stay in power. Lotshwao (2011) notes how Botswana's longest surviving main opposition party, the Botswana National Front (BNF), has been plagued, over the years, by destructive factionalism, recurring splits as well as lack of strategy and poor leadership. Further, Mokopakgosi & Molomo (2000) argue that the winner-take-all electoral system used by Botswana tends to produce a two-party system and the opposition parties would perform

better if they form an alliance. Attempts at opposition alliance have however failed over the years as they were undermined by the “unwillingness of political parties to make the right concessions that would make the numbers add up” (Mokopakgosi & Molomo, 2000, p. 19). This was evidenced by the collapse of the initial Umbrella talks, resulting in yet another splitting of votes between the Botswana Congress Party (BCP) and the Umbrella for Democratic Change (UDC) during the 2014 elections (Bule, 2015). Previous failed attempts at opposition unity include an umbrella organization called the Peoples Progressive Front (PPF), the United Democratic Front (UDF) and the Botswana Alliance Movement (BAM) (Mokopakgosi & Molomo, 2000).

6.2 Independent Advice to the President

Some structural developments at the Office of the President have been published in the local media revealing information that the President receives advice on various public policy from independent sources. In 2011, the Botswana National Front (BNF) expressed concern at the frequent engagement of Collins & Newman law firm, led by its Senior Partner Mr Parks Tafa, to represent government in cases that should be handled by the Attorney General’s Chambers (Mohwasa, 2011). This is especially so because according to Section 51(3) of the Constitution, the Attorney General is the principal legal advisor to Government (Republic of Botswana, 1966). The *Sunday Standard* (2011) notes how Mr Tafa who is also President Khama’s personal legal advisor, had virtually pushed out the Attorney General as the President’s advisor on official matters. This can be seen as an indication of the President bypassing government structures, enhancing his resources and further increasing his ability to make autonomous decisions. The President even went further to appoint former Deputy Attorney General, Mr Abraham Keetshabe as General Counsel within the Office of the President, advising him on political and legal matters, further diminishing the stature of the Attorney General’s Office (*Sunday Standard*, 2011).

The Telegraph (2012) further notes that since he left the army and joined the Office of the President as Vice President, all three private secretaries to President Khama were brought in from the army. There has also been an influx of BDP operatives at the Office of the President (OP) assuming various top positions. The former Assistant Minister of Local Government and Rural Development, Mr Olebile Gaborone has been appointed as the Coordinator of Poverty Eradication at OP after losing the 2014 general elections (Letswamotse, 2015). The

position was previously held by another BDP member and former army official Colonel Duke Masilo, who was also re-appointed Deputy Permanent Secretary at OP after unsuccessfully contesting the BDP elections (Mosikare, 2015). The former BDP Member of Parliament for Gabane/Mmankgodi, Mr Mmoloki Raletobana, was also appointed as Coordinator of the Government Implementation Coordination Office (GICO), another senior position at OP (Mmeso, 2014). This is an indication that the President wants to surround himself with officials who would be in a position to drive his agenda and he seems to have faith in his colleagues from his military days as well as BDP members. This is despite the fact that the Office of the President has other capable officials who have had extensive knowledge and experience within the Ministry.

6.3 Conclusion

The President in Botswana has gradually continued to display a growing capacity to overcome resistance, primarily because of the constitutional power that he wields. The fact that the President cannot face legal action has therefore resulted in a number of instances where there are questions regarding the constitutionality of some of his actions, but without any room for remedy because he is supreme. This behaviour of the executive leader in Botswana is more compatible with a presidential system where a President is protected against legislative action by his/her independent mandate and survival in office. This, according to Samuels and Shugart (2006) is what enables a president under a presidential system to be able to achieve his/her policy goals even without the support of his party, a situation that should never occur in a parliamentary democracy.

There has also been a gradual enhancement of the resources at the disposal of the President, making the person in office a highly powerful and independent figure. Access to these resources has also enabled the president to use his position to his advantage and that of his party, giving him an edge over opposition parties. The president in Botswana currently enjoys a high level of media coverage, particularly state media and this has served to enhance his personal profile. There has also been an increased growth in the ability of the president to make autonomous decisions outside traditional structures of government, and this has been coupled with independent advice coming from outside the traditional structures of the Office of the President. With increased autonomy, the President has been able to carry out government policy according to his preferred priorities, resulting in accusations that his main focus is on populist pet projects like Ipelegeng and the Housing Appeal which are centrally

coordinated at the Office of the President instead of more appropriate ministries (Saleshando, 2014). These projects are coordinated by officials clearly hand picked from the ruling party or the army. The result has been a highly centralised management of certain offices and projects within the Office of the President, which have had the effect of enhancing the president's profile. These are further signs of a parliamentary democracy that has been affected by presidentialization. The overwhelming control of Parliament by the BDP over the years has only led to perpetrate this situation. Sebudubudu (2010) has stated that Botswana's Parliament is actually "hamstrung in its ability to provide a check and balance on the Executive" (p. 7) resulting in domination and little accountability by the President and his Cabinet.

CHAPTER 7: CONCLUSION

7.1 Summary of the Study

From the preceding chapters, it is clear that Botswana's parliamentary democracy has been adversely affected by the presidential reforms and practices which have been introduced over the years. The pre-independence governance system and the constitution adopted at independence had marginalised traditional leadership, allowing new political forces to take over. The constitution was drafted and approved by a select few, and was never presented to the wider citizenry for input and approval. There was little public understanding of its provisions and this enabled the initial opportunity to deviate from parliamentary government and adopt presidential traits. Although the presidential system seems relatively functional and successful in certain countries, particularly in the USA where it originated, in Botswana the implementation of some of its aspects has served to create more harm than good for the country's democracy. Piecemeal presidential reforms have only resulted in a distorted hybrid which does not introduce the best of the presidential system while maintaining the good of parliamentary democracy. While adopting some proponents of the presidential system, Botswana has not been able to adequately adopt the accompanying checks and balances which have made the system functional in the USA.

7.2 Findings of the study

Bodilenyane (2012) notes that in a presidential system, the Executive may be pre-eminent, but there are mechanisms to check and counterbalance the powers of the President which include a powerful parliament, independent judiciary, vibrant civil society as well as a free and protected media. These mutual checks are needed to maintain the "systematic balance of government" in a presidential system as referred to by Setty (2008, p. 247). These mechanisms are however weak in Botswana because from inception at independence, the Executive emerged powerful ahead of other organs, empowered by the country's Constitution. When Vice President Masisi responded to the State of the Nation Address in 2014, he made reference to the central position that the Constitution occupies in the country's democracy, even stating that what Botswana has is in fact constitutional supremacy and not parliamentary supremacy (Ramatiti, 2014). Botswana's indirect election of the president leaves ambiguity regarding where the president receives his mandate. The office bearer is not directly elected by either Parliament or the electorate, but emerges through a count of votes of

other office bearers. This creates uncertainty regarding where r to whom the president should be accountable.

However, although substantially affected by presidentialization, structures of the Botswana system are still predominantly parliamentary and it would be more effective for the country's democracy to halt presidentialization and reform towards a more parliamentary direction. Although the President is not elected from Parliament, his cabinet is drawn from Parliament and upon assuming office the President also becomes a member of Parliament by ex-officio status, with full parliament privileges which include voting. Parliamentary accountability mechanisms between the legislature and executive are still intact although they are weak and often ineffective.

7.3 Recommendations

To restore parliamentary democracy in Botswana, a comprehensive constitutional review has to be undertaken with emphasis on particular sections which tend to enhance presidentialization. Reforms should start with Section 47 dealing with the functions of the President, which vests all Executive power upon the President and does not require him/her to follow anyone's advice in the exercise of his/her duties. Botswana could borrow from the South African Constitution which places the executive authority of the Republic on the President but also states that the President exercises the authority, together with other members of Cabinet (Republic of South Africa, 1996). The appointment by the president of various senior government positions as provided for in the Constitution should also be reviewed. The UK Institute for Public Policy Research (2013) states that while the civil service must display responsiveness to the government of the day, it also has to maintain a certain degree of independence from political masters. In this regard, the Constitutional Reform and Guidance Act of 2010 provides for the existence of a Civil Service Commission, a body which is independent from the government and the civil service (Civil Service Commission, 2015). This commission approves senior positions, including those of permanent secretary, within the civil service. While the committee can consult with ministers, the latter however do not sit in the commission's selection panel and are not involved in the final decision (Institute for Public Policy Research, 2013). However, in Botswana it seems the President wields even more power than a president in a well-functioning presidential democracy, making numerous high profile appointments alone. Bodilenyane (2012) notes how in the US, the President has to "sweat before he can appoint certain categories of the

Executive Staff” which require the approval of the Senate (p. 192). Having separate, independent bodies to appoint some senior officials would therefore improve the independence of some key government organs and also reduce political appointments to strategic government positions.

Section 35 (1) of the Constitution which provides for automatic succession of the Vice President to the Presidency in the event of a vacancy, can also be reviewed by resorting to a more parliamentary practice. South Africa offers a good example of a parliamentary democracy with an executive President that has checks and balances and a more democratic form of continuity when the President leaves office. Instead of automatic succession, Section 86 (3) of the South African Constitution states that “An election to fill a vacancy in the office of the President must be held at a time and on a date determined by the Chief Justice, but no more than 30 days after the vacancy occurs” (Republic of South Africa, 1996, p. 45). This was demonstrated in 2008 following the resignation of H.E. Thabo Mbeki as President of South Africa. The Chief Justice convened a Parliament meeting for the election of the president where nominations were received and members proceeded to vote for a new President by secret ballot (Parliamentary Monitoring Group, 2008). Southall (2008) notes how the transition from one administration to another was achieved relatively smoothly from the time that the High Court made a ruling on President Mbeki’s resignation and the eventual election of an interim president. A similar constitutional provision in Botswana would ensure more democratic transitions of power in future while also providing flexibility and regime stability.

The automatic dissolution of Parliament following a successful motion of no confidence under Section 92 of the Constitution should also be made more flexible and allow the option for a new government to be formed, where possible, without going for elections. This would enhance the effectiveness of such a vote in holding the Executive accountable to Parliament. The United Kingdom Fixed Term Parliaments’ Act of 2011 which determines the dissolution of Parliament outlines at Section 2 that an early parliamentary election can be held when the House of Commons passes a motion of no confidence in the government, if 14 days pass without formation of an alternative government (The United Kingdom National Archives, 2011). There have been four occasions since 1895 where United Kingdom governments have lost confidence votes and in two instances, the Leader of Opposition formed a new government while in the other instances, general elections were held (Kelley, 2013). Such an

amendment may provide Parliament with more security when moving the motion in Botswana, especially where the opposition has improved numbers and the ruling party is divided.

The Constitution could also be amended to adequately provide for the accountability of the Executive to Parliament. Section 92 (2) of the South African Constitution reflects this as it clearly states that members of the Executive are accountable to Parliament in both their collective and individual capacities (Republic of South Africa, 1996). This is particularly important for Botswana with regards to the President who is largely out of reach for Parliament. Introduction of the President's question time in Parliament would allow the person in office to make more appearances in Parliament and take responsibility for government policy.

7.4 Concluding Remarks

Botswana is on the eve of celebrating its jubilee of 50 years of independence as well as consistent democratic rule. The time is opportune for the country to ensure that it maintains this legacy by consolidating its democracy. This research has highlighted some of the adverse consequences that have been brought about by presidential reforms and it is not too late to reverse these and embrace a more parliamentary approach. The parliamentary system has proven to be effective in the United Kingdom and closer to home in South Africa, simultaneously promoting accountability, flexibility and stability. Therefore, the best way to strengthen Botswana's democracy is to move away from any further presidential reforms to the country's democracy, and rather have an increased level of accountability by the President and his Cabinet to Parliament within a predominantly parliamentary system of government.

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